

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34793]

New Mexico Department of Transportation—Acquisition Exemption—Certain Assets of the BNSF Railway Company

New Mexico Department of Transportation (NMDOT), an agency of the State of New Mexico and a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from the BNSF Railway Company (BNSF) certain right-of-way and trackage, totaling approximately 297.1 miles in Valencia, Bernalillo, Sandoval, Santa Fe, San Miguel, Mora, and Colfax Counties, NM, and Las Animas County, CO. The rail line extends between milepost 932.1 in Belen, NM, on BNSF's El Paso Subdivision and milepost 635.0 in Trinidad, CO, on BNSF's Raton Subdivision.

NMDOT states that, pursuant to a purchase and sale agreement between the parties, BNSF will in three separate phases convey to NMDOT the right-of-way, track, and other real property and assets associated with the line, subject to BNSF's retention of a permanent, exclusive freight railroad operating easement. NMDOT indicates that it will not acquire the right or obligation to provide freight rail service on the line.¹

¹ For these reasons, NMDOT has simultaneously filed a motion to dismiss the notice of exemption in this proceeding. The motion will be addressed in a subsequent Board decision.

According to NMDOT, the parties plan to close on the first phase of the transaction on January 17, 2006.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34793, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Kevin M. Sheys, Kirkpatrick & Lockhart Nicholson Graham LLP, 1800 Massachusetts Ave., NW, Washington, DC 20036.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: January 4, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary